

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

TRANSFER OF  
INBOUND MARKET DOMINANT  
EXPRÈS SERVICE AGREEMENT 1,  
INBOUND MARKET DOMINANT  
REGISTERED SERVICE AGREEMENT 1,  
INBOUND MARKET DOMINANT PRIME  
TRACKED SERVICE AGREEMENT,  
AUSTRALIAN POSTAL CORPORATION - UNITED  
STATES POSTAL SERVICE BILATERAL  
AGREEMENT, AND  
CANADA POST CORPORATION - UNITED  
STATES POSTAL SERVICE BILATERAL  
AGREEMENT  
NEGOTIATED SERVICE AGREEMENTS TO THE  
COMPETITIVE PRODUCT LIST

Docket No. MC2020-73

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO  
CHAIRMAN'S INFORMATION REQUEST NO. 1,  
WITH PORTIONS FILED UNDER SEAL  
(January 10, 2020)**

The United States Postal Service (Postal Service) hereby provides its responses to Chairman's Information Request No. 1, which the Postal Regulatory Commission (Commission) filed in this docket on January 3, 2020.<sup>1</sup> A response was due no later than January 10, 2020.

Each question as it appears in the request is reprinted verbatim in the attached, and is followed by the Postal Service's response. Portions of the response to Question 2 are filed under seal, and the Postal Service incorporates by reference its application

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<sup>1</sup> Chairman's Information Request No. 1, Docket No. MC2020-73, January 3, 2020.

for non-public treatment filed in this docket for the protection of the portions of the response to Question 2 that are filed only under seal.<sup>2</sup>

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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<sup>2</sup> United States Postal Service Request to Transfer the Inbound Market Dominant Express Service Agreement 1, Inbound Market Dominant Registered Service Agreement 1, Inbound Market Dominant PRIME Tracked Service Agreement, Australian Postal Corporation – United States Postal Service Bilateral Agreement, and Canada Post Corporation – United States Postal Service Bilateral Agreement to the Competitive Product List, December 13, 2019 (Request), at Attachment 10.

## **RESPONSE OF THE UNITED STATES POSTAL SERVICE TO CHAIRMAN'S INFORMATION REQUEST NO. 1**

1. Please confirm whether the Postal Service receives inbound letters and flats (format P and G) under the Inbound Market Dominant Express Service Agreement 1, the Inbound Market Dominant Registered Service Agreement 1, or the Inbound Market Dominant PRIME Tracked Service Agreement.<sup>3</sup>
  - a. If confirmed, please explain why the three PRIME agreements should be added to the Competitive product list, given that the format P and G mailpieces are within the market dominant Inbound Letter Post product.
  - b. If confirmed, please identify any potential challenges (operational, accounting, statistical, etc.) to retaining the portions of the three PRIME agreements that are comprised of format P and G mailpieces on the Market Dominant product list.
  - c. If not confirmed, please provide a reference to data in Docket No. ACR2019, Library Reference USPS-FY19-NP2, December 27, 2019, that demonstrates that all Inbound Letter Post items that received services under the three PRIME agreements were format E mailpieces in fiscal year 2019.

### **RESPONSE:**

Not Confirmed. Per UPU Convention Regulation Article 17-116, tracked and registered items default to Format E. Tracked or registered items tendered that meet the dimensions of letter and flat criteria will be treated as an E format item and be subject to E format rates.<sup>4</sup>

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<sup>3</sup> See United States Postal Service Request to Transfer the Inbound Market Dominant Express Service Agreement 1, Inbound Market Dominant Registered Service Agreement 1, Inbound Market Dominant Prime Tracked Service Agreement, Australian Postal Corporation – United States Postal Service Bilateral Agreement, and Canada Post Corporation – United States Postal Service Bilateral Agreement to the Competitive Product List, December 13, 2019 (Request).

<sup>4</sup> Paragraph 13 of Article 17-116 of the Universal Postal Convention, which concerns exchange of format-separated mails, states that “[f]or operational, statistical and accounting purposes, registered, insured and tracked items shall be treated as bulky letters (E) or small packets (E), regardless of their

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- a. N/A
- b. N/A
- c. As shown in USPS-FY19-NP2/Supporting Files/FPS Inbound Data/Data as Received/Summary data for ICRA(UpdatedFY19-11'9'19)  
191125a.xlsb, the Summary Groups related to PRIME, and the UX and UR mail streams dedicated to tracked and registered items, default to SIRVI Item Format E.

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actual shape.” (Universal Postal Union (UPU), Convention Manual, Update 1- June 2019, Volume II, Letter Post Regulations, [http://www.upu.int/uploads/tx\\_sbdownloader/actInThreeVolumesManualOfConventionMaj1En.pdf](http://www.upu.int/uploads/tx_sbdownloader/actInThreeVolumesManualOfConventionMaj1En.pdf), at 197, Art. 17-116, paragraph 13.)

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2. Please explain how and why the three PRIME agreements<sup>5</sup> are functionally equivalent to the baseline reference for Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1.<sup>6</sup>

### **RESPONSE:**

Because of (1) the close similarity between the remuneration components in the three PRIME agreements and the [REDACTED] included in the inbound portion of the bilateral agreement with the Australian Postal Corporation that is the subject of Docket No. R2017-2 (Australia Post bilateral),<sup>7</sup> and (2) the Commission's conclusion that the Australia Post bilateral is functionally equivalent to the China Post 2010 Agreement,<sup>8</sup> if the Commission grants the Postal Service's request to transfer the Australia Post bilateral to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product, the Commission should also grant the Postal Service's request to transfer the three PRIME agreements to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product.

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<sup>5</sup> The Postal Service refers to the Inbound Market Dominant Express Service Agreement 1, the Inbound Market Dominant Registered Service Agreement 1, and the Inbound Market Dominant PRIME Tracked Service Agreement collectively as "the three PRIME agreements." Request at 1-2.

<sup>6</sup> Docket Nos. MC2010-34 and CP2010-95, Order Adding Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 to the Competitive Product List and Approving Included Agreement, September 29, 2010.

<sup>7</sup> See Notice of the United States Postal Service of Filing a Signed Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, Docket No. R2017-2, December 28, 2016, at Attachment 1, Annex 1.

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As background, in Order No. 2148, the Commission designated “for purposes of functional equivalence comparisons in future market dominant FPO [Foreign Postal Operators] 1 filings, the agreements filed in Docket Nos. R2010-5 and R2010-6 as alternative baseline agreements, with selection of the baseline agreement in each filing at the option of the Postal Service.”<sup>9</sup>

In Order No. 3742, the Commission found that the Australia Post bilateral is functionally equivalent to the baseline China Post 2010 Agreement that is the subject of Docket No. R2010-6, stating the following.

*Functional equivalence.* The Commission finds that the Agreement is functionally equivalent to the China Post 2010 Agreement. The agreements share similar cost and market characteristics. Differences between the Agreement and the China Post 2010 Agreement do not foreclose a finding that the agreements are functionally equivalent. The Public Representative supports this finding. The Commission, therefore, concludes that the Agreement may be included in the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product.<sup>10</sup>

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<sup>8</sup> PRC Order No. 3742, Order Approving Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement with Australia Post, Docket No. R2017-2, January 10, 2017, at 7.

<sup>9</sup> PRC Order No. 2148, Order Granting, in Part, Motion for Partial Reconsideration of Order No. 1864 and Modifying, in Part, Order No. 1864, Docket No. R2013-9, August 11, 2014, at 8.

<sup>10</sup> PRC Order No. 3742, at 7.

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Annex 1 of the Australia Post bilateral includes settlement rates for Australia to United States Tracked Packet with Delivery Scanning, which are cut and pasted below. Those rates include [REDACTED] <sup>11</sup>

AU to US						
Mail Category	Dispatch Subclass	Format	Description	SDR/Item	SDR/Kg	In SDR
A	UX	E	Tracked Packet (Australia to United States Tracked Packet with Delivery Scanning) – using settled item counts	[REDACTED]		

Thus, in the R2017-2 docket, the Commission determined that an agreement that includes [REDACTED] was functionally equivalent to the China Post 2010 Agreement.

As for the three PRIME agreements, first, the Inbound Market Dominant Express Service Agreement 1 includes a delivery confirmation service that is very similar to the delivery confirmation service provided in the Australia Post bilateral. Subject to the terms of

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<sup>11</sup> See Notice of the United States Postal Service of Filing a Signed Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, Docket No. R2017-2, December 28, 2016, at Attachment 1, Annex 1.

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Article 3 and Annex 6 of the Exprès Service Agreement, an Enhanced Payment is made

[REDACTED]

[REDACTED]<sup>12</sup> [REDACTED] are very similar to the [REDACTED]

[REDACTED] in the Australia Post bilateral. Thus, the inbound portions of the Exprès Service Agreement are functionally equivalent to the inbound portions of the Australia Post bilateral. Therefore, if the Commission grants the Postal Service's request to transfer the Australia Post bilateral to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product, the Commission should also grant the Postal Service's request to transfer the inbound portion of the Exprès Service Agreement to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product.

Second, the Inbound Market Dominant Registered Service Agreement 1 includes a delivery confirmation service similar to the delivery confirmation service provided in the Australia Post bilateral. Subject to the terms of Article 3 and Annex 4 of the Registered Service Agreement, [REDACTED]

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<sup>12</sup> See Article 3 and Annex 6 of the Inbound Market Dominant Exprès Service Agreement 1. The full text of the Inbound Market Dominant Exprès Service Agreement 1 is set forth in n.1 of the Postal Service's initial filing in this docket. See United States Postal Service Request to Transfer the Inbound Market Dominant Exprès Service Agreement 1, Inbound Market Dominant Registered Service Agreement 1, Inbound Market Dominant PRIME Tracked Service Agreement, Australian Postal Corporation – United States Postal Service Bilateral Agreement, and Canada Post Corporation – United States Postal Service



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[REDACTED]<sup>13</sup> [REDACTED] are very similar to the rates [REDACTED] in the Australia Post bilateral. Thus, the inbound portions of the Registered Service Agreement are functionally equivalent to the inbound portions of the Australia Post bilateral. Therefore, if the Commission grants the Postal Service's request to transfer the Australia Post bilateral to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product, the Commission should also grant the Postal Service's request to transfer the inbound portion of the Registered Service Agreement to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product.

Third, the Inbound Market Dominant PRIME Tracked Service Agreement includes a delivery confirmation service that is similar to the delivery confirmation service provided in the Australia Post bilateral. Subject to the terms of Article 3 and Annex 3 of the PRIME Tracked Service Agreement, an Enhanced Payment is made [REDACTED]

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Bilateral Agreement to the Competitive Product List, Docket No. MC2020-73, December 13, 2019, (Request), n.1.

<sup>13</sup> See Article 3 and Annex 4 of the Inbound Market Dominant Registered Service Agreement 1. The full text of the Inbound Market Dominant Registered Service Agreement 1 is set forth in n.2 of the Postal Service's initial filing in this docket. See Request, n.2.

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████████████████████<sup>14</sup> ██████████ is very similar to the ██████████  
██████████ in the Australia Post bilateral, that the Commission determined was functionally equivalent to the China Post 2010 Agreement. Thus, the inbound portions of the PRIME Tracked Service Agreement are functionally equivalent to the inbound portions of the Australia Post bilateral. Therefore, if the Commission grants the Postal Service's request to transfer the Australia Post bilateral to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product, the Commission should also grant the Postal Service's request to transfer the inbound portion of the PRIME Tracked Service Agreement to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product.

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<sup>14</sup> See Article 3 and Annex 3 of the Inbound Market Dominant PRIME Tracked Service Agreement 1. The full text of the Inbound Market Dominant PRIME Tracked Service Agreement 1 is set forth in n.3 of the Postal Service's initial filing in this docket. See Request, n.3.

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3. Please explain why or why not the “acceptance, transportation within the United States, and delivery”<sup>15</sup> of mailpieces that is provided as part of the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product and not provided under the PRIME agreements is a “distinct cost or market characteristic,” that distinguishes the PRIME agreements as separate products, pursuant to 39 U.S.C. § 102(6).

### **RESPONSE:**

Following up on the response to Question 2, in Order No. 3742, the Commission found that the inbound portion of the Australia Post 2017 Agreement that is the subject of Docket No. R2017-2 (Australia Post bilateral) “is functionally equivalent to the China Post 2010 Agreement.” As noted in the response to Question 2, in Order No. 3742, the Commission also stated that the Australia Post bilateral and the China Post 2010 Agreement “share similar cost and market characteristics.”<sup>16</sup>

Thus, if the Commission determined that the “acceptance, transportation within the United States, and delivery” of mailpieces provided as part of the Australia Post bilateral did not distinguish that agreement as a product separate from the Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1 product, and if the Commission grants the Postal Service’s request to transfer the Australia Post bilateral to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1

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<sup>15</sup> Mail Classification Schedule § 2515.10.1(a).

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product, it would be reasonable for the Commission to similarly determine that the “acceptance, transportation within the United States, and delivery” of mailpieces to which the three PRIME Agreements apply do not distinguish the three PRIME agreements as separate products from the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product.

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<sup>16</sup> PRC Order No. 3742, Order Approving Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement with Australia Post, Docket No. R2017-2, January 10, 2017, at 7

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4. The Postal Service states that "...the items to which the services provided under the three PRIME agreements and Australia Post bilateral five agreements are applied are treated as E format items." Request at 8. The Postal Service provides a footnote to the Universal Postal Convention Article 17-116, which states "[f]or operational statistical and accounting purposes, registered, insurance and tracked items shall be treated as bulky letters (E) or small packets (E), regardless of their actual shape."<sup>17</sup> *Id.*, n.29. Please confirm that Article 17-116 applies to tracked items under the three PRIME agreements in addition to items tracked through the Universal Postal Union.

### **RESPONSE:**

Not confirmed. Registered and tracked items sent under the three PRIME agreements are to be dispatched as subclass UR and UX, respectively. Both subclasses UR and UX mail are treated as E format host pieces. However, registered items from countries that tender in excess of 100,000 pieces of registered items per year to the United States are also treated as letter post mail dispatched under the UR subclass, and tracked items tendered from countries that send in excess of 100,000 tracked items per year to the United States are submitted under the UX subclass. See Universal Postal Union (UPU) Convention Regulations 17-121 and 17-124. Thus, registered items sent under the PRIME Registered Service Agreement are treated as other registered mail to the extent that such items are sent in subclass UR and UX dispatches, but there are subsets of registered mail that are not required to be dispatched as subclass UR and UX mail, depending on the volume in the flow.

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<sup>17</sup> Universal Postal Union (UPU) Convention Manual, Volume II, Letter Post Regulations, available at: [http://www.upu.int/uploads/tx\\_sbdownloader/actInThreeVolumesManualOfConventionMaj1En.pdf](http://www.upu.int/uploads/tx_sbdownloader/actInThreeVolumesManualOfConventionMaj1En.pdf).